

ABLE Act Oversight Committee Minutes

January 13, 2016

Location: 111 N Sanders St. Conference Room 107, Helena, MT 59601

Time: 2:00 - 3:00 pm.

Committee Attendees:

Jon Bennion,
Sheila Hogan (Department of Administration - Director),
Novelene Martin (DPHHS/Developmental Disabilities Program - Bureau Chief),
Kat Patterson *

Interested Party Attendees:

Senator Mary Caferro (The Arc Montana),
Justice Ender (Summit Independent Living Center) *,
Travis Hoffman (Summit Independent Living Center) *,
Chris Clasby (Summit Independent Living Center) *,
Roger Holt (Parents Let's Unite Kids),
Mike Manion (Department of Administration),
Matt Bugni (AWARE) *,
Stephanie Kindt (Developmental Disabilities Program),
Karen Cech (Recorder).

*Denotes individuals participating via webinar.

Meeting was brought to order and introductions were made by participants.

A motion for approval of November 12, 2015 minutes was made by Jon Bennion.

First motion to approve was made by Sheila Hogan.

Second motion to approve was made by Novelene Martin.

The November 12, 2015 minutes were approved.

1. Committee Membership Update – Jon

Jon submitted a request to add an additional member to the ABLE Act Oversight Committee.

Appointment of member may follow in early February.

2. ABLE Act Administration Update – Novelene

The Developmental Disabilities Program (DDP) Fiscal Bureau has agreed to the administration of the ABLE Act. This will alleviate finding a third party to perform this task. The administration will entail monitoring of the use of funds and ensuring they fall within the guideline set.

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The DDP Fiscal Bureau currently monitors Self Sufficiency Trusts. The process for the ABLE Act will be similar and not as detailed. The ABLE Act will have no impact on Self Sufficiency Trusts.

3. Financial Institution Selection Process

a. RFP Process – Sheila

Mike Manion, Chief Legal Counsel for the Department of Administration, reported that through the Montana Procurement Act the Request for Proposal (RFP) will be a simple process. There is a template in place and the committee will need to determine what criteria will be required to evaluate perspective financial institutions.

Legislation had set some criteria in Senate Bill 0399 Section 9. Additional criteria that may be considered can be found in the Montana Statute in the Administrative Rules of Montana (ARM), 37.2.503, 37.2.508, 37.2.505, and 37.2.511. References can be made in Montana Code 53-18-101, 53-18-102, 53-18-103, 53-18-104, and 53-18-105.

b. Finalize Financial Institution Letter – Jon

Draft letter to go out to financial institutions was approved. Letter will be attached to letterhead and signed by chair and co-chair of ABLE Act Oversight Committee. Jon will send out the letter to financial institutions and Sheila will send the letter to the Commissioner of Securities and Insurance. The letter will be placed on the ABLE Act website, <http://dphhs.mt.gov/dsd/developmentaldisabilities/ABLE>.

After letter has been distributed, Novelene will forward any questions to committee members.

4. Update on IRS Rules - Kat

Kat Patterson reported her summarized findings on IRS rules. Links Kat referenced are:

IRS Proposed Rule:

<https://www.federalregister.gov/articles/2015/06/22/2015-15280/guidance-under-section-529a-qualified-able-programs>

Interim Guidance on IRS Proposed Rule:

<https://www.irs.gov/uac/Newsroom/New-IRS-Guidance-to-Simplify-ABLE-Program-Administration>

Social Security Reporting Notice:

<https://www.federalregister.gov/articles/2015/12/14/2015-31351/advance-notification-regarding-reporting-by-state-able-programs-under-section-529a-of-the-internal>

5. Timeline Goals for Implementation - Novelene

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The committee will have a conference call to discuss and create a timeline for goals and implementation. This will include the RFP process and the writing of rules.

A staff member of the Developmental Disabilities Program will work on the ABLE Act rules. Rules that are developed will be short and noncontroversial. Timelines for the rule process can be found on the Secretary of State website, <http://sos.mt.gov/arm/public/index.asp>.

A qualifying withdrawal process of a financial agency or and individual with an account may need to be developed for monitoring.

A simple handbook may need to be developed for families on how to obtain an ABLE account.

Privacy letter ruling is a letter from the IRS where disciplinary action will not be taken if there is some misunderstanding about a discrepancy in the ABLE account. Novelene will arrange for Susan Callaghan, DPHHS Office of Legal Affairs, to attend the next meeting to explain the purpose of a letter.

6. Public Comment

Does Montana have any incentives to keep individuals that establish an account from using out-of-state financial institutions? Per Kat, Montana offers tax incentives for individuals that use Montana institutions.

Next meeting date will be mid-February. Date will be posted on the website.

Meeting adjourned at 3:15 pm.